PARTNERSHIP—WHAT CONSTITUTES—SHARING PROFITS.—The defendant, the owner of a theater, leased it for a certain specified annual rental, and a share of the net profits realized by the lessee. The plaintiff was injured while witnessing a performance at the theater, and, alleging that the defendant and the lessee were partners, sued the defendant to recover for the injuries sustained. *Held*, the plaintiff cannot recover. *Cole* v. *Rome Savings Bank*, 161 N. Y. Supp. 15. For principles involved, see 2 VA. LAW REV. 158.

TELEGRAPHS AND TELEPHONES—ABUTTING LAND OWNERS—INJURIES TO TREES.—The defendant, with the consent of the municipality, injured the shade trees on the sidewalk in front of the plaintiff's house by cutting off the limbs in order to prevent its telephone wires from being obstructed. This action is brought to recover damages for the injuries to the trees. *Held*, the plaintiff can recover. *Wheeler* v. *Norfolk Carolina Telephone & Telegraph Co.* (N. C.), 89 S. E. 793.

An abutting landowner has a special ownership in the trees in front of his house and may maintain an action for injuries to them. *Norman Milling Co.* v. *Bethurem*, 410 Okla. 735, 139 Pac. 830, 51 L. R. A. (N. S.) 1082. An easement given for a public street does not give the city a right to permit a telephone company to cut the limbs of trees standing in a street, unless the company shall compensate the abutting owner; for such a use of the street is an additional servitude for which an abutting owner is entitled to compensation. *Rienhoff* v. *Springfield Gas, etc., Co.*, 177 Mo. App. 417, 162 S. W. 761. This is true even where the trees were grown after the wires were erected. *Southwestern Telegraph & Telephone Co.* v. *Smithdeal*, 103 Tex. 128, 124 S. W. 627. But if a franchise has been granted by the legislature, a telephone company cannot be enjoined from planting its poles and stringing its wires in a public street, although it is liable for the damages thereby occasioned an abutting property owner. *Chesapeake, etc., Tel. Co.* v. *Mackenzie*, 74 Md. 36, 28 Am. St. Rep. 219. Nor can it be enjoined from cutting trees, where the permission has been granted by the city council. *Bronson* v. *Albion Telephone Co.*, 67 Neb. 111, 93 N. W. 201, 60 L. R. A. 426.

It may be said that any incumbrance that does not facilitate travel on a public street is an additional servitude. So, an easement made to a city for a public street cannot be appropriated to the use of an elevated railway without compensation to the abutting owners. *Story* v. *New York Elevated Railway Co.*, 90 N. Y. 122, 43 Am. Rep. 146. Where there is a charter from the state and authority from the city to construct a steam railroad in a city street, the railroad company is not given the right to use the street without paying an abutting property owner for the additional servitude imposed thereon. *East End St. Ry. Co.* v. *Doyle*, 88 Tenn. 747, 13 S. W. 936. And even where a railway company changes the grade of a street by authority of the city council as a part of the general scheme to improve the city streets, if the railway company is benefited by the injury of an abutting property owner, the company is liable in damages. *Central of Georgia Railway Co.* v. *Garrison*, 12 Ga. App. 369, 77 S. E. 193.